

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:10cv204**

RDLG, LLC,)
)
Plaintiff,)
)
v.)
)
RPM GROUP, LLC, et al.,)
)
Defendants.)
)

Pending before the Court is the Motion in Limine [# 135]. Plaintiff moves to exclude Defendant Fred Leonard (“Defendant”) from offering evidence or statements that contradict the factual allegations in the Complaint and the facts and circumstances surrounding Plaintiff’s sale of the golf course on the Linville Falls property in December 2010. On December 5, 2014, the Court held the Final Pretrial Conference in this matter and heard oral argument as to the pending Motions in Limine. At the Final Pretrial Conference, counsel for Defendant expressed no opposition to allowing Plaintiff’s motion as the introduction of evidence or statements that contradict the factual allegations in the Complaint. Defendant, however, contends that evidence regarding the sale of the golf course could be pertinent to the issue of damages in this case.

Upon a review of the record, the pleadings, and after the benefit of oral argument on the motion, the Court **GRANTS in part** the motion. The Court **GRANTS** the motion as to the introduction of evidence or statements that contradict the factual allegations in the Complaint. The Court **DENIES without prejudice** the motion as to the introduction of evidence regarding the sale of the golf course. Whether or not the sale of the golf course is pertinent to the issue of damages will depend on the particular evidence introduced at trial. For example, if Defendant can introduce evidence demonstrating that some of the money Plaintiff claims as damages directly went to improving the golf course, that the golf course was subsequently sold, and that Plaintiff recovered these funds through the sale, then the evidence could potentially be relevant as to the amount of damages. The Court, however, **DIRECTS** Defendant that he shall not introduce any evidence or make any reference to the sale of the golf course until he makes a proffer as to what his evidence will show, and the Court will make a ruling at time, based on the evidence introduced by Plaintiff. Plaintiff may renew its motion at that time.

Signed: January 5, 2015

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

